

## Lockean Just-War Theory, Slavery, and Colonialism

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In *The Second Treatise of Government*, first published in 1689, John Locke primarily discusses the natural liberty of man and government. Early in the text, before he discusses property, Locke addresses slavery; this address barely exceeds the length of a page. His treatment of slavery seems to be a justification of the institution. This is in conflict with his earlier remark, from the *First Treatise*, that “slavery is so vile and miserable an Estate of Man.”<sup>1</sup> Moreover, his treatment is inconsistent with the varying aspects of his political philosophy. These connections reach into his own life, where he had active involvement in the slave trade in Carolina. Scholars have hotly debated Locke’s relationship with slavery and seems that they have not reached any definitive consensus on this relationship. In this essay, I will argue that “slavery should be seen as part of the fabric of Lockean philosophy,” as Wayne Glausser writes in “Three Approaches to Locke and the Slave Trade”.<sup>2</sup> It is worth noting that this is the third approach that he outlines and commentates upon in his essay, and it is not one that he takes as his own. I will make this argument, however, on the basis of Locke’s historical colonial interests, his treatment of the state of war, and waste land. In this, I will be focusing my attention on his political philosophy exclusively. Alongside *The Second Treatise* and Glausser’s essay, I will be looking to Brad Hinshelwood’s *The Carolinian Context of John Locke’s Theory of Slavery* and James Farr’s ‘So Vile and Miserable an Estate’: *The Problem of Slavery in Locke’s Political Thought*.

The first and easiest contradiction addressed is that between his *First* and *Second* treatises. James Farr writes, “Slavery is so vile and miserable an estate of man and so directly opposite to the generous temper and courage of our nation, that tis hardly to be conceived that an Englishman, much less a Gentleman, should plead for it.”<sup>3</sup> In this, Locke is not referring to the slave-trade, but to absolute monarchy, particularly Sir Robert Filmer. As Farr notes, Locke is accusing absolute monarchists of “rationalizing the ‘enslavement’ of Englishmen ‘under arbitrary power.’”<sup>4</sup> To Farr,

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<sup>1</sup> Brad Hinshelwood, “The Carolinian Context of John Locke’s Theory of Slavery,” *Political Theory* 41, no. 4 (2013): 563.

<sup>2</sup> Wayne Glausser, “Three Approaches to Locke and the Slave Trade,” *Journal of the History of Ideas* 51, no. 2 (1990): 200.

<sup>3</sup> James Farr, “‘So Vile and Miserable an Estate’: The Problem of Slavery in Locke’s Political Thought,” *Political Theory* 14, no. 2 (1986): 269.

<sup>4</sup> *Ibid.*, 264.

this is the sole indictment of slavery that Locke is making. This is, as Farr notes, one he makes in order to take a moral high ground against monarchists, to cast them as slavers, and not as a categorical opposition to slavery.<sup>5</sup>

It is important and necessary to remark on Locke's history with slavery for context. Locke was involved in the slave trade in the American colonies. Hinshelwood writes: "Locke also helped author the Fundamental Constitutions of Carolina, which guaranteed Englishmen 'absolute power and authority' over African slaves in the colony and created a just-war theory of legitimate slavery in the *Second Treatise*."<sup>6</sup> Moreover, Locke was known to have invested money in two slave trading companies; Glusser writes "the Royal African Company, and a company of adventures formed to develop the Bahama Islands. The first of these was explicitly a slave trading enterprise. Locke invested six hundred pounds in the Royal African company."<sup>7</sup> These passages raise many of this essay's questions. For the moment, it is essential to focus on this "just-war" theory of slavery and its relation to the Carolina colony, and his investments of time and money into the slave trade. This connection is relevant, as the following passage suggests "in Carolina just-war arguments over slavery were part of a regular dialogue [...] due to the massive trade in Indian slaves and their method of capture—war."<sup>8</sup> This kind of justification for slavery is essential to Locke's philosophy from the *Second Treatise*—which he wrote alongside the Fundamental Constitutions—and its apparent contradictions.<sup>9</sup>

Before looking to Locke's views on slavery, as presented in the *Second Treatise*, I wish to explain what exactly a just war is. For this we ought to look to "Of the State of War," as he writes, "And hence it is that he who attempts to get another man into his absolute power does thereby put himself into a state of war with him [...] reason bids me to look on him as an enemy to my preservation."<sup>10</sup> War, in this sense, is the aggression of one person against another, where the aggressor compels the target to self defense. In Farr's words: "A just war is one waged against unjust aggressors by an innocent people defending its rights and property."<sup>11</sup> Importantly, a just war extends to the defense of one's property, not just their life. This is evident by Locke's

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<sup>5</sup> Farr, "So Vile and Miserable an Estate," 269.

<sup>6</sup> Hinshelwood, "The Carolinian Context of John Locke's Theory of Slavery," 563.

<sup>7</sup> Glusser, "Three Approaches to Locke and the Slave Trade," 200.

<sup>8</sup> Farr, "So Vile and Miserable an Estate," 565.

<sup>9</sup> *Ibid.*, 565.

<sup>10</sup> John Locke, *The Second Treatise of Government; And A Letter concerning Toleration* (Mineola, NY: Dover Publications, 2002), 8.

<sup>11</sup> Farr, "So Vile and Miserable an Estate," 270.

supposing that it is lawful to kill a thief, regardless of whether they have threatened life.<sup>12</sup> Any use of force against your person or property is unlawful and serves as lawful grounds for retaliation, according to Locke. It is in the use of retaliatory force, against an unlawful aggressor, that makes a war just. In other words, a war is just insofar as you are not the initial aggressor.

What is Locke's philosophical position on slavery? Firstly, Locke thought of man as naturally free, and that he ought not to be under the will of another.<sup>13</sup> Alongside this, it is the natural right of humans to own property.<sup>14</sup> The only legislative power, created through consent, one ought to be under the commonwealth, and does not subject man to an arbitrary will.<sup>15</sup> Moreover, humans cannot, by any means, surrender their power over their own life to another; in other words, one cannot "enslave himself to anyone."<sup>16</sup> How could these principles be consistent with slavery? To this, Locke writes the following: "Indeed, having by his fault forfeited his own life by some act that deserves death, he to whom he has forfeited it may [...] delay to take it, and make use of him to his own service."<sup>17</sup> In this sense, a conqueror may spare the life of a defeated person, or group, and press them into service as a form of mercy. As Farr writes "Mercy, not right, is the condition of their existence."<sup>18</sup> In this state, they are no longer at war, and have become "a lawful conqueror and a captive."<sup>19</sup> Locke supposes that they have formed a compact of "limited power on the one side, and of obedience on the other" as a means of sparing the captive's life.<sup>20</sup> Furthermore, Locke makes it apparent that the only alternative the slave has is to resist the master and die.

How is this a just-war formulation of slavery? Farr writes the following: "The captive slave is wholly to blame because he had 'quitted reason' by violating the rights of innocents and so rendered himself 'liable to be destroyed by the injur'd person.'"<sup>21</sup> As I noted before, the master conquers the slave and could kill them, but instead spares their life and puts them in bondage. They are, as Farr says, at fault for their enslavement because they were the initial aggressors, if the conflict is a just one. Moreover, Farr notes that the slave, before their defeat, was a free and rational

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<sup>12</sup> Locke, *The Second Treatise of Government*, 8.

<sup>13</sup> *Ibid.*, 10-11.

<sup>14</sup> *Ibid.*, 11.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Farr, "So Vile and Miserable an Estate," 270.

<sup>19</sup> Locke, *The Second Treatise of Government*, 11.

<sup>20</sup> *Ibid.*

<sup>21</sup> Farr, "So Vile and Miserable an Estate," 271.

person “who violated the rights and property of other free men.”<sup>22</sup> In Farr’s sense, the slave has lost their rights because they have violated another’s, which makes the just-war enslavement consistent with Locke’s natural rights theory.<sup>23</sup> In this sense, it is precisely because of the slave’s actions that they have become a slave.<sup>24</sup>

This is not, however, all we need to know about Lockean slavery, as he sets up four more important constraints to make slavery just.<sup>25</sup> They are as follows: firstly, that those who conquered alongside him, as allies, cannot suffer conquest and must remain free.<sup>26</sup> Secondly, that the conqueror may only take possession of property to “make reparation for the damages received.”<sup>27</sup> The seizure of land is excluded, barring one exception, as Farr writes:

The seizure of land itself is explicitly excluded by this constraint, for land is by right inheritable property of future innocent generations, especially in any part of the world, where all the Land is possessed, and none lies in waste.<sup>28</sup>

Thirdly, the conqueror may only enslave those who “actually assisted, concurred, or consented to that unjust force” and not any innocent parties.<sup>29</sup> This claim extends to future generations; Farr notes: “Children born of slaves cannot themselves be retained as slaves, for slavery ‘reaches no further than the Persons’ of those who acted unjustly, and ‘thus it dies with them.’”<sup>30</sup> The last condition of lawful slavery, in Lockean theory, is that the conqueror cannot subject the slave to “an absolute and ‘purely despotal’ power” if the prior three conditions are met.<sup>31</sup> Moreover, no act of a master, under these conditions, “can violate the rights of a slave, who, through an earlier [aggressive] act of his own, has no rights.”<sup>32</sup> By these conditions, it is clear that Locke’s conditions for lawful slavery remain consistent with natural law theory. This is because, by these constraints, the captive, in having been an aggressor, has waived their natural rights to freedom and property.

So far, my focus has been on showing that Locke’s political theory remains consistent with his just-war treatment of slavery. It my hope that I have adequately achieved this end and have set

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<sup>22</sup> Farr, “So Vile and Miserable an Estate,” 271.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.* It is worth noting that Farr only outlines three, but I have isolated four from Locke in conjunction with Farr.

<sup>26</sup> Locke, *The Second Treatise of Government*, 82.

<sup>27</sup> Farr, “So Vile and Miserable an Estate,” 83.

<sup>28</sup> *Ibid.*, 272.

<sup>29</sup> Locke, *The Second Treatise of Government*, 83.

<sup>30</sup> Farr, “So Vile and Miserable an Estate,” 273.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

the proper foundation for discussing Afro-American slavery and Native American slavery. Importantly, the four conditions I have laid out are essential to understanding how Locke's just-war theory of slavery applies more accurately to North American colonialism than to Afro-American slavery. I will discuss, in conjunction, Locke's view of property waste land in order to help substantiate these claims.

First, however, I quickly want to rule Afro-American slavery out of Locke's philosophy, because they are antithetical. As Farr notes, there are three reasons why Afro-American slavery violates his political theory and the four conditions I laid out earlier. As Farr writes, "three facts of Afro-American slavery [...] violate Locke's just-war theory of slavery: (1) the methods of capture, (2) the demography of enslavement, and (3) the institution of hereditary bondage."<sup>33</sup> Of the first, Farr notes that methods of capture were varied, but direct capture in slave raids was common, and unjust in a Lockean sense.<sup>34</sup> Furthermore, the demography of enslaved Africans included women and children.<sup>35</sup> Locke was, verifiably, aware of this fact. Farr states:

Locke read to the council [of trade] an official letter he had endorsed from Sir Peter Colleton reporting on the importation of slaves to Barbados. In his letter, Colleton noted the slave population at that time, measured conservatively, included 11,914 women, 5,827 boys, and 5,207 girls. Such capture violated just-war premises—not to mention the natural rights of the innocent.<sup>36</sup>

The method of capture and the inclusion of women and children, in Afro-American slave-trading directly violate Lockean conditions for lawful slavery. This is based on unjust procurement, and the enslaving of innocents. Moreover, lattermost of the three main violations, hereditary enslavement, was certainly the case for many of the children.<sup>37</sup> By these violations, Lockean slavery is not a justification of Afro-American slavery, and that their enslavement was unlawful on Lockean terms. It is essential to note that this is, under no circumstances, justification for Locke's own involvement in the Afro-American slave-trade.

With Afro-American slave-trading out of the way, I wish to turn my attention to Locke's property theory. Property for Locke is a natural right of man, as I have noted earlier in this essay. His theory of property begins with the world, as he writes: "God gave the world to men in common

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<sup>33</sup> Farr, "So Vile and Miserable an Estate," 274.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*, 275.

<sup>36</sup> *Ibid.*, 276.

<sup>37</sup> *Ibid.*

[...] for their benefit.”<sup>38</sup> This is, in more specific terms, is the land upon which man labours to support his life.<sup>39</sup> What man labours on, according to Locke, is “properly his.”<sup>40</sup> This labour removes the property from “that common state” that it was previously in.<sup>41</sup> In this sense, land is either cultivated or uncultivated. He notes that uncultivated land is wasted land in the following: “yet there are still great tracts of ground to be found which [...] lie waste, and are more than the people who dwell on it do or can make use of, and so still lie in common.”<sup>42</sup> By this, land that remains in common, and is yet uncultivated by the people who live there, is wasted. Moreover, Locke has the Americas in mind when he says this. He explains, “as it doth the Americans now, are generally things of short duration, such as, if they are not consumed by use, will decay and perish of themselves.”<sup>43</sup> To Locke, it is imperative that the land be cultivated so as not to be wasted. Moreover, should one have more than they themselves needs, they may give it away.<sup>44</sup> To this effect, giving away what you have is, to him, a wise use of the land according to the following passage: If he gave away a part to anybody else [...] he did no injury; he wasted not the common stock, destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands.<sup>45</sup>

By this, it does no harm to share that common land or property which would go to waste if it was held on to. Moreover, it is only in established society that this property is divided into “parts and parcels” in order to be distributed between private persons by common consent.<sup>46</sup> It is from this base of property theory that Locke’s philosophy can justify colonialism of the Americas, and Locke’s own hand in it.

On this note, Lockean politics allows the conquering of uncultivated land to be a variant of lawful war. As Hinshelwood, citing Martin Seliger, writes: “war between the planters and the natives was assumed as a matter of course ... the natives’ resistance to the conquest of their waste territory turns them into aggressors and the Europeans as ‘just conquerors’ of the natives’ ‘waste.’”<sup>47</sup> This assertion finds its root in Locke’s theory of property and just-war. As mentioned

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<sup>38</sup> Locke, *The Second Treatise of Government*, 15.

<sup>39</sup> *Ibid.*, 12-13.

<sup>40</sup> *Ibid.*, 13.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, 21.

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*, 21-22.

<sup>46</sup> *Ibid.*, 21.

<sup>47</sup> Hinshelwood, “The Carolinian Context of John Locke’s Theory of Slavery,” 563.

before, to Locke unused land ought to be cultivated. If one were to colonize and cultivate that unused land, they would not count as aggressors in Lockean terms, because “waste land is common land.”<sup>48</sup> As Glausser, citing Locke and Kathleen Squadrito, explains, “‘where there being more Land, than the Inhabitants possess, and make use of, any one has liberty to make use of the waste’[...] Thus, if a native population should ‘resist conquest of their waste land, they become aggressors in war,’ and the developers may justly kill them.”<sup>49</sup> In this way, Lockean theory allows for a war over conquering waste land to be a just war.

It is my view that Locke was interested in portraying the capture of land to explicitly justify the colonialism he was taking part in by supporting the Carolina colony. As I noted before, just-war theory was a topic of discussion in this colony, and during this time Locke was working on *The Second Treatise* and the Fundamental Constitutions of Carolina.<sup>50</sup> Prior to his two *Treatises*, however, there had been conflict between Carolina and the native Coosa people, whereby several of these people were taken prisoner.<sup>51</sup> Prior to their capture, however, the colonists used the retaliation by the Coosa as a means to declare a just-war.<sup>52</sup> Moreover, these Coosa captives were “shipped to the West Indies as slaves” almost immediately.<sup>53</sup> At this time as well, the Carolinas were widely known as “the Indian slave traders of the North American continent.”<sup>54</sup> Carolinians, as I have said, used just-war rhetoric as justification for their war and enslavement of native Coosa, as Hinshelwood writes, “Over the course of this period, the Proprietors began to speak of Indian slavery in Just war terms that resonate with Locke’s theory of Slavery.”<sup>55</sup> As a secretary that drafted the 1682 amendments to Fundamental Constitutions, Locke was no doubt aware of this history in the colony. I am of the mind that Locke must have intentionally written *The Second Treatise* as a means to justify his colonialist participation in Carolina, particularly in relation to the enslavement of Native Americans.

It is on these grounds that I would conclude that Locke, in his just-war treatment of slavery, distances himself from Afro-American slavery, while simultaneously justifying colonialism in the Americas. Moreover, I hope that I have shown that Locke’s theory remains consistent with itself,

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<sup>48</sup> Glausser, “Three Approaches to Locke and the Slave Trade,” 215.

<sup>49</sup> *Ibid.*, 208.

<sup>50</sup> Hinshelwood, “The Carolinian Context of John Locke’s Theory of Slavery,” 565.

<sup>51</sup> *Ibid.*, 568.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*, 569.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

and that it is consistent with his practice, aside from the association he had with the Royal African Company. It is worth noting, however, that to my mind, echoing Farr, that “*Locke knew this.*”<sup>56</sup>

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<sup>56</sup> Farr, “So Vile and Miserable an Estate,” 264.



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